

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:13-CV-00060-GCM**

KEVIN CHELKO PHOTOGRAPHY, INC.,)

Plaintiffs,)

v.)

JF RESTAURANTS, LLC,)

Defendants.)

ORDER

THIS MATTER is before the Court on Defendant JF Restaurants, LLC's Motion to Set Aside Default (Doc. No. 22), Memorandum in Support (Doc. No. 23), and Affidavit in Support (Doc. No. 24). In its Motion and supporting documents, Defendant argues that it never learned of Plaintiff's lawsuit because it moved addresses multiple times. Defendant asks this Court to set aside the Entry of Default that was entered in this case on April 10, 2013, and argues that the Court should not impose sanctions because it filed its Motion days after its corporate officers became aware of the instant suit. Plaintiff has indicated that it does not oppose setting aside the entry of default.

Pursuant to Rule 55(c) of the Federal Rules of Civil Procedure, the Court may set aside an entry of default for good cause. In this instance, the Court finds that Defendant was unaware of Plaintiff's lawsuit until recently, and upon learning of the action, timely filed to set aside the entry of default. Additionally, there is unlikely to be substantial prejudice to Plaintiff from setting aside the entry of default, because little action has been taken in this case.

IT IS THEREFORE ORDERED that Defendant's Motion is **GRANTED** and the entry of default in this case is set aside. Defendant is further ordered to file an Answer or other

responsive pleading within 21 days, no later than March 1, 2016. The parties are also reminded that they will be required to conduct an Initial Attorneys Conference within 14 days of Defendant's response to the complaint, and to file their Certificate of Initial Attorneys' Conference seven days later. That filing should be made no later than March 22, 2016.

SO ORDERED.

Signed: February 9, 2016

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

